

Filed for intro on 05/22/97
HOUSE BILL 2027 By
Winningham

SENATE BILL 2035
By Burks

AN ACT to amend Chapter 815 of the Private Acts of 1917, and all acts amendatory thereto, to rewrite the Charter of the City of Byrdstown, in Pickett County, Tennessee.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. The City of Byrdstown in the County of Pickett, and the inhabitants thereof, are hereby constituted a body politic and corporate by the name and style of "City of Byrdstown", and by that name shall have perpetual succession; shall sue and be sued, plead and be impleaded in all the Courts of law and equity, in all actions whatsoever; may purchase, receive and hold real estate, personal and mixed property in said City, and sell, lease, and dispose of same for the benefit of the City; and may purchase, receive, and hold real, personal and mixed property beyond the limits of the City, to be used for the establishment of a workhouse, or for the purpose of owning, erecting and operating, works for supplying the City with water and lights, and may have and use a corporate seal and change it at pleasure. The corporate limits of said City shall embrace the territory within the following boundaries, to wit: Beginning at a corner on the hill top above the garment factory at the corner common to the line of J.C. Pierce farm and the lot owned by the Corporation of Byrdstown the corner being the north east corner of the J. C. Pierce farm; thence with the wire fence, which is the Northern boundary of said J. C. Pierce farm, a line in an Eastwardly direction along this fence and continuing through the same direction in a straight line to the East side of a body of water known as the Ringley or Beaty Creek; thence with the East bank of said creek to a corner where

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the town branch (so as to include within the corporate limit, the Jim Easterly house, the Cummins Cleaners, and the Sam Huddleston House); intersects the said creek; thence with the town branch in a westwardly direction to a point where the main branch intersects Rural Road #4235; thence with a straight line in a Northwardly direction to the North East corner of the Pickett Co. High School lot; thence a straight line Westwardly along the boundary line of said lot to the line of Loyd Holt; thence Northwardly and Westwardly with said Loyd Holt land to the line of Taso Poor's land; thence Northwardly a straight line to the intersection of the old Albany and Byrdstown public road with Tennessee Highway #42, so as to include the homes of the Everett Asberry Property being the old Loyd Sells property and L. B. Mitchell within the Corporate limits; thence in a Westwardly direction across said highway along the North boundary line of Curtis Cope and extending in the same direction to the line of Albert Neal's property; thence Southwardly along the west boundary line of Curtis Cope's land to a point three hundred feet North of the road known as the Story Graveyard Road; thence westwardly parallel to and at a distance of three hundred feet from the Story Graveyard Road and to the West side of the road and to run the road's entire length from the intersection of the Story Graveyard with Tennessee Highway #42 to the line of the property of Dr. Malcom E. Clark so as to include the property of Dr. M. E. Clark in the corporate limits; thence with the North boundary of the said Clark property a line Westwardly and Southwardly to within three hundred feet of the road that bounds the Dr. M. E. Clark property on the South; thence with this road in a westwardly direction parallel to and a distance of three hundred feet from said road continuing along said road to the West boundary of Carlos Poor's home yard; thence Southwardly along this line a straight line being a common line of the Cato Sells and Raymond Dyer properties to within three hundred feet of the Tennessee Highway #42; thence in a Westwardly direction parallel to and at a distance of three hundred feet from said highway to a corner common to the Ammonett Heirs and Haggard Little so as to include all the homes and businesses on the North side of the highway within the corporate limits; thence with the line common to F. A. Sells and sons and the Ammonett heirs a

southwardly direction crossing the said highway and to three hundred feet South of said highway to a point on the Ammonett Heirs property; thence Eastwardly along the Tennessee Highway #42 parallel to and at a distance of three hundred feet South of said highway a line to the Southwest corner of the Ben Gross home yard, so as to include all the homes and businesses on the South side of highway #42 within the corporate limits; thence in an Eastwardly direction a straight line to the Southwest corner of Lyle Donaldson home yard; thence a straight line Eastwardly to the Southwest corner of the home lot of Homer B. Smith; thence a straight line in an Eastwardly direction to the Eastwardly boundary of the old J. H. Robbins line, so as to include all homes and businesses on the South side of the old Olympus Byrdstown public road within the corporate limits; thence a straight line in a Southwardly direction to the beginning. (The above description is as given of the corporate boundaries by ordinance passed on third reading on March 25, 1957.)

Also included within the Corporate limits are the following three areas:

AREA 1: Beginning on a point in the North corporate limit line, this also being a point in the North property line of C. E. Vincent; thence running North 21 degrees 30 minutes East 712 feet to a point in the South right-of-way line of a county road; thence running with said county road with its meanders as follows: North 89 degrees 15 minutes West 250 feet; North 26 degrees 18 minutes West 196 feet; North 21 degrees 00 minutes East 360 feet; North 13 degrees 04 minutes West 127 feet; North 41 degrees 15 minutes west 162 feet; North 09 degrees 00 minutes West 363 feet; North 55 degrees 30 minutes East 420 feet; North 44 degrees 30 minutes East 485 feet; North 28 degrees 30 minutes West 200 feet; North 33 degrees 30 minutes West 38 feet; North 15 degrees 00 minutes West 67 feet; North 21 degrees 15 minutes East 36 feet; North 61 degrees 00 minutes East 167 feet; North 60 degrees 43 minutes East 203 feet; North 72 degrees 00 minutes East 535 feet; South 86 degrees 15 minutes East 423 feet; South 89 degrees 30 minutes East 290 feet; North 76 degrees 00 minutes East 417 feet; North 72 degrees 00 minutes East 266 feet; North 48 degrees 30

minutes East 214 feet; North 69 degrees 00 minutes East 281 feet; North 71 degrees 00 minutes East 322 feet; North 83 degrees 30 minutes East 205 feet; South 87 degrees 00 minutes East 165 feet to the intersection of State Route 42 so as to include the entire county road within the corporate limits; thence running with the West right-of-way of SR 42 as follows: South 00 degrees 15 minutes West 505 feet; South 06 degrees 30 minutes East 238 feet to a point in the present corporate limit line; thence running in a Westwardly direction parallel to and at a distance of 300 feet North and West of Woodlawn Drive, to the beginning so as to include all properties within the above boundary.

AREA 2: Beginning on a point in the South corporate limit line, this also being a point in the West boundary line of the property of Lyle Donaldson, and running with the West boundary line of the Lyle Donaldson lands South 29 degrees 30 minutes West 957 feet to a corner, this being the Southwest corner of the Lyle Donaldson lands and a point in the North boundary line of the lands of Clyde Pierce; thence running with the North boundary line of the lands of Clyde Pierce South 61 degrees 45 minutes East 610 feet to a corner, this being the Southeast corner of the lands of Lincoln Davis and the Northeast corner of the lands of Clyde Pierce; thence running with the East boundary line of Clyde Pierce and the West boundary line of Thomas Arms, South 24 degrees 30 minutes West 543 feet to the Southwest corner of the Thomas Arms lands, this also being a Northwest corner of the Ralph Keisling lands; thence running with the Thomas Arms and Ralph Keisling boundary line as follows: South 80 degrees 15 minutes West 442 feet; North 26 degrees 30 minutes East 175 feet to the Southwest corner of the Pine Street turn-around; thence running with the South right-of-way line of Pine Street South 63 degrees 00 minutes East 943 feet to the intersection of Pine Street and Keisling Drive; thence running South 69 degrees 15 minutes East 4,200 feet to a corner, this being a Northwest corner of the lands of Hilrey Garrett and a southwest corner of the lands of the City of Byrdstown, Tennessee; thence running with the South boundary line of the City of Byrdstown, Tennessee; thence South 82 degrees 00 minutes East 462 feet to a point in the center of the creek at the uppermost end

of the city reservoir East; thence running with the City's South boundary line downstream to the dam; thence down the creek with its meanders to the present corporate limits line; thence running with the South corporate limits line Westwardly to the beginning so as to include all the properties within the above boundary.

AREA 3: Beginning on a point in the East corporate limits line where said line crosses Spring Road Drive; thence running South 88 degrees 15 minutes East 505 feet; thence North 08 degrees 00 minutes East 1780 feet; thence North 05 degrees 30 minutes East 122 feet; thence North 36 degrees 30 minutes East 55 feet; thence North 05 degrees 30 minutes East 370 feet; thence North 49 degrees 00 minutes East 370 feet; thence North 00 degrees 30 minutes West 68 feet; thence North 85 degrees 15 minutes East 260 feet; thence North 08 degrees 00 minutes East 330 feet to a point in the South right-of-way line of county highway R-5490; thence running with said right-of-way line South 82 degrees 30 minutes West 132 feet; North 82 degrees 00 minutes West 1,188 feet to an intersection of county highway R-5490 and State Route 42; thence with the East right-of-way line of State Route 42 South 22 degrees 00 minutes East 100 feet to the present corporate limits line; thence running with the corporate limits line in a Southwardly direction to the beginning so as to include all the property within the above boundary.

The above description is that area which was annexed by ordinance on February 22, 1973.

SECTION 2.

(A) The governing body of said City shall be the City Council, consisting of a Mayor, a Recorder, and three (3) Aldermen, all of whom shall be voting members. The term of office shall be four (4) years. The Mayor, Recorder and Aldermen shall be qualified City voters and bona fide residents of Pickett County and shall be chosen by the qualified voters of the City of Byrdstown. The term of office of all elected officials shall begin September 1 of the election year for the City. It shall be a separate election

unto itself. Each official of the City named in this act, before entering into the duties of the office shall take and subscribe to an oath to faithfully discharge the duties thereof. This oath may be taken before any person authorized by law to administer oaths in Tennessee and when taken, it shall be filed with the City Recorder and be made a part of the official City Minutes. The range of salary shall be: Mayor - \$300.00 - \$600.00 per month, Recorder - \$300.00 - \$600.00 per month and Aldermen - \$100.00 - \$200.00 per month. The salary, when so fixed, shall be paid monthly out of the general funds of the corporation.

(B) A Quorum will be three (3) voting members; likewise, a three (3) vote majority shall be required to pass any Resolution or Ordinance. A Quorum is required to transact any business of the City.

(C) The City Council shall appoint a City Administrator who shall oversee the day to day operations. It will not be one of the Council. The minimum requirements of the City Administrator will be:

(1) A High School Diploma or G.E.D. with five (5) years experience as a supervisor; or

(2) A College Degree with one (1) year experience of supervision.

The duties of the City Administrator shall be as follows:

(1) Administer the business of the City.

(2) Make recommendations to the City Council for improving the quality and quantity of public services to be rendered by the officers and employees to the inhabitants of the City.

(3) Keep the City Council fully advised as to the conditions and needs of the City.

(4) Report to the City Council the condition of all property, real and personal, owned by the City and recommend repairs or replacements as needed.

(5) Recommend to the City Council and suggest the priority of programs or projects involving public works or public improvements that should be undertaken by the City.

(6) Recommend specific personnel positions, as may be required for the needs and operations of the City, and may propose personnel policies and procedures for approval of the City Council; and

(7) Perform such other duties as may from time to time be designated or required by the City Council.

(D) The City Council shall have full power and authority to appoint and elect all officers, servants and agents of the corporation as they deem necessary, and, within the restrictions of this act, fix the pay and compensation of the same; and they shall have the power for sufficient cause, to dismiss and discharge any officer or agent they may appoint, by a majority vote of the City Council. In filling vacancies on the City Council, the remaining City Council members shall appoint a person to fill the vacant position for the remaining unexpired term.

(E) The City Council shall elect an Alderman to the office of Vice-Mayor, who shall serve as Mayor or Recorder when the Mayor or Recorder is absent or unable to discharge the duties of the office.

(F) Any official of the City guilty of a misfeasance or malfeasance in office, shall be subject to be charged and tried by the City Council and fined or dismissed from office as in the City Council's wisdom they may deem for the best, and on such trial, the Mayor shall preside and have a casting vote, the concurrence of a majority being necessary to a verdict. In case the Mayor is on trial, the Vice-Mayor shall preside. Before entering on such trial, the Mayor and each City Councilman shall take an oath to faithfully and impartially try the accused.

SECTION 3. The City Council of the City of Byrdstown shall have full power and authority by Ordinance within the City; the Mayor shall be the chief executive officer of the City, and shall preside at all meetings of the City Council and be a voting member. The Mayor shall from time to time give the City Council information in writing or otherwise, relative to the condition of the corporation, and shall recommend for its consideration such measures as the Mayor may deem expedient and beneficial to the interest of the City. The Mayor shall see to the enforcement of the Ordinances of the City and to the preservation of the health and peace of the City. The Mayor shall perform such other duties as may be prescribed by Ordinance of said City, and not in conflict with the powers herein conferred.

SECTION 4. General Powers. The City Council, under this Charter may:

- (1) Assess, levy and collect taxes for all general and special purposes on all subjects or objects of taxation, and privileges taxable by law for State, County or City purposes;
- (2) Adopt classifications of the subjects and objects of taxation that are not contrary to law;
- (3) Make special assessments for local improvements;
- (4) Contract and be contracted with;
- (5) Incur debts by borrowing money or otherwise, and give any appropriate evidence thereof, in the manner hereinafter provided;
- (6) Issue and give, sell, pledge or in any manner dispose of, negotiable or non-negotiable interest-bearing or noninterest-bearing bonds, warrants, promissory notes or orders of the City, upon the credit of the City or solely upon the credit of specific property owned by the City or solely upon the credit of income derived from any property used in connection with any public utility owned or operated by the City or solely upon the credit of the proceeds of special assessments for local improvements, or upon any two (2) or more such credits;

(7) Expend the money of the City for all lawful purposes;

(8) Acquire or receive and hold, maintain, improve, sell, lease, mortgage, pledge or otherwise dispose of property, real or personal, and any estate or interest therein, within or without the City or State;

(9) Condemn property, real or personal, or any easement, interest, or estate or use therein, either within or without the City, for present or future public use; the condemnation shall be effected in accordance with the terms and provisions of Tennessee Code Annotated, Title 29, Chapter 16, or in any other manner provided by law;

(10) Take and hold property within or without the City or State upon trust, and administer trusts for the public benefit;

(11) Acquire, construct, own, operate and maintain, or sell, lease, mortgage, pledge or otherwise dispose of public utilities or any estate or interest therein, or any other utility of service to the City, its inhabitants, or any part thereof, and further, may issue debt for these purposes under the Local Government Public Obligations Act, compiled in Tennessee Code Annotated, Title 9, Chapter 21;

(12) Grant to any person, firm, association or corporation (including the City) franchises for public utilities and public services to be furnished the City and those therein. The power to grant franchises embraces the power to grant exclusive franchises. Whenever an exclusive franchise is granted, it shall be exclusive not only as against any other person, firm, association, or corporation, but also against the City itself. Franchises may be granted for a period of twenty-five (25) years or less, but not longer. The City Council may prescribe, in each grant of a franchise, the rate, fares, charges and regulations that may be made by the grantee of the franchise in accordance with state and federal law. Franchises may, by their terms, apply to the territory within the corporate limits of the City at the date of the franchises, and as the corporate limits

may be enlarged, and to the existing streets, alleys and thoroughfares that thereafter may be opened;

(13) Make contracts with any person, firm, association or corporation for public utilities, public services to be furnished the City and those therein. The power to make contracts embraces the power to make exclusive contracts. When an exclusive contract is entered into, it shall be exclusive against any other person, firm, association or corporation. These contracts may be entered into for a period of twenty-five (25) years or less, but not longer. The City Council may prescribe in each such contract entered into the rates, fares, charges, and regulations that may be made by the person, firm, association or corporation with whom the contract is made. Such contracts may, by their terms, apply to the territory within the corporate limits of the City at the date of the contract, and as the corporate limits may be enlarged, and to the then existing streets, alleys and thoroughfares and to any other streets, alleys and other thoroughfares that thereafter may be opened;

(14) Prescribe reasonable regulations regarding the construction, maintenance, equipment, operation and service of public utilities; compel reasonable extensions of facilities for these services; and assess fees for the use of or impact upon these services. Nothing herein shall be construed to permit the alteration or impairment of any of the terms or provisions of any exclusive franchise granted or of any exclusive contract entered into under subdivisions (12) and (13);

(15) Establish, open, relocate, vacate, alter, widen, extend, grade, improve, repair, construct, reconstruct, maintain, light, sprinkle and clean public highways, streets, boulevards, parkways, sidewalks, alleys, parks, public grounds, public facilities, libraries and squares, wharves, bridges, viaducts, subways, tunnels, sewers and drains within or without the corporate limits, regulate their use within the corporate limits, assess fees for the use of or impact upon such property and facilities, and take and appropriate property

therefor under the provisions of Tennessee Code Annotated, §§ 7-31-107 -- 7-31-111 and 29-16-114, or any other manner provided by general laws;

(16) Construct, improve, reconstruct and reimprove by opening, extending, widening, grading, curbing, guttering, paving, graveling, macadamizing, draining or otherwise improving any streets, highways, avenues, alleys or other public places within the corporate limits, and assess a portion of the cost of these improvements on the property abutting on or adjacent to these streets, highways or alleys under, and as provided by Tennessee Code Annotated, Title 7, Chapters 32 and 33;

(17) Assess against abutting property within the corporate limits the cost of planting shade trees, removing from sidewalks all accumulations of snow, ice and earth, cutting and removing obnoxious weeds and rubbish, street lighting, street sweeping, street sprinkling, street flushing, and street oiling, the cleaning and rendering sanitary or removing, abolishing and prohibiting of closets and privies, in such manner as may be provided by general law or by Ordinance of the board;

(18) Acquire, purchase, provide for, construct, regulate and maintain and do all things relating to all marketplaces, public buildings, bridges, sewers and other structures, works and improvements;

(19) Collect and dispose of drainage, sewage, ashes, garbage, refuse or other waste, or license and regulate their collection and disposal, and the cost of collection, regulation or disposal may be funded by taxation, special assessment to the property owner, user fees or other charges;

(20) License and regulate all persons, firms, corporations, companies and associations engaged in any business, occupation, calling, profession or trade not prohibited by law;

(21) Impose a license tax upon any animal, thing, business, vocation, pursuit, privilege or calling not prohibited by law;

(22) Define, prohibit, abate, suppress, prevent and regulate all acts, practices, conduct, business, occupations, callings, trades, use of property and all other things whatsoever detrimental, or liable to be detrimental, to the health, morals, comfort, safety, convenience or welfare of the inhabitants of the City, and exercise general police powers;

(23) Prescribe limits within which business occupations and practices liable to be nuisances or detrimental to the health, morals, security or general welfare of the people may lawfully be established, conducted or maintained;

(24) Inspect, test, measure and weigh any article for consumption or use within the City, and charge reasonable fees therefor, and provide standards of weights, tests and measures;

(25) Regulate the location, bulk, occupancy, area, lot, location, height, construction and materials of all buildings and structures, and inspect all buildings, lands and places as to their condition for health, cleanliness and safety, use and when necessary, prevent their use and require any alteration or changes necessary to make them healthful, clean or safe;

(26) Provide and maintain charitable, educational, recreative, curative, corrective, detentive, or penal institutions, departments, functions, facilities, instrumentalities, conveniences and services;

(27) Purchase or construct, maintain and establish a workhouse for the confinement and detention of any person convicted in the city court of offenses against the laws and ordinances of the municipality who fails to secure the fine imposed upon such person, or contract with the county to keep these persons in the workhouse of the county and provide by that contract and by ordinance for the commitment of these persons to the workhouse so provided until the fines are paid;

(28)

(A) Enforce any ordinance, rule or regulation by fines, forfeitures and penalties, and by other actions or proceedings in any court of competent jurisdiction.

(B) Establish a Mayor's Court by Ordinance in which the Mayor shall be authorized and required to enforce all City Ordinances and try small offenses.

(C) No fine may exceed fifty dollars (\$50.00) for any one (1) offense;

(29) Establish schools, determine the necessary boards, officers and teachers required therefor, and fix their compensation, purchase or otherwise acquire land for or assess a fee for use of, or impact upon, schoolhouses, playgrounds and other purposes connected with the schools, purchase or erect all necessary buildings and do all other acts necessary to establish, maintain and operate a complete educational system within the City;

(30) Regulate, tax, license or suppress the keeping or going at large of animals within the City, impound them, and in default of redemption, sell or kill them;

(31) Call elections as herein provided; and

(32) Have and exercise all powers that now or hereafter it would be competent for this Charter specifically to enumerate, as fully and completely as though these powers were specifically enumerated.

SECTION 5. No moneys shall be paid out of the treasury of the City except upon the written authorization of the Mayor and Recorder, which shall show for what purpose same is paid.

SECTION 6. Before entering upon the duties of this office, the Mayor shall enter into a bond in the penal sum of one hundred thousand (\$100,000.00) dollars, payable to the State of Tennessee for the use and benefit of the City of Byrdstown, and conditioned to faithfully discharge the duties of the office and pay over all moneys coming into his/her hands belonging to the City.

SECTION 7. It shall be the duty of the Recorder to be present at all meetings of the City Council and to keep full and accurate accounts of all business transacted by the City, to be preserved in permanent form, and to perform such other duties as may be imposed upon him/her by this act.

SECTION 8. It shall be the duty of the Recorder to keep a full and accurate system of accounts with each fiscal department of the City, showing the receipts and from what source derived and the expenditures and on what account paid, keeping each account separate from each other, and to submit a statement of the same to the City Council at the beginning of each quarter.

SECTION 9. The Recorder shall have charge of all the finances of the City and shall collect the City taxes, privileges and all other revenues of the City and no moneys shall be paid out by the Recorder except under the written authorization of the Mayor.

SECTION 10. The Recorder shall perform any other duty which may be imposed by Ordinance of the City, and before entering upon the discharge of his/her duties, the Recorder shall take and subscribe to an oath before the Mayor or some Officer authorized to administer oaths, to faithfully discharge the duties of the office, and in addition, shall enter into a bond in the penal sum of one hundred thousand (\$100,000.00) dollars, payable to the State of Tennessee, for the use and benefit of the City of Byrdstown and conditioned that he/she will faithfully discharge the duties of the office and pay over and account for all moneys coming into his/her hands by virtue of the office and belonging to the City of Byrdstown.

SECTION 11. All City taxes shall be due and payable on the first (1st) day of October of each year for which they are assessed, and shall become delinquent on the first (1st) day of the following March, and it is hereby made the duty of the Recorder to make out a list of delinquent taxes within ten (10) days after they become delinquent and certify same to the Tax Attorney, who shall proceed to collect in accordance with State law. Delinquent taxes may be collected in any manner that is in accordance with State law.

SECTION 12. The Recorder shall make out the tax book each year, and the assessment of property in the City for each year shall be based upon the assessment made by Pickett County.

SECTION 13. Byrdstown City Elections will be held on the first (1st) Thursday of August, every four (4) years and held the same year as the Tennessee Governor Elections. The City Election shall be an Election unto itself.

All adult citizens who are either a resident of Byrdstown or who are bona fide property owners within the city limits of Byrdstown and who have been registered as a city voter at least thirty (30) days prior to the election shall be a qualified City voter to vote in the Byrdstown City Elections.

Elections and registration of voters shall be in accordance with the laws of the State of Tennessee.

All candidates for any elected City office shall be a qualified City voter and a bona fide resident of Pickett County, Tennessee, both being for a period of at least one (1) year prior to election.

SECTION 14. In case the validity of this act is questioned in any Court, only that portion of the act that is questioned shall be held invalid, and the remainder of same shall not thereby be impaired but shall remain in full force and effect.

SECTION 15. Chapter 815 of the Private Acts of 1917, and all acts amendatory thereto, are hereby deleted, and this act as rewritten is the charter of the City of Byrdstown in its entirety.

SECTION 16. All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

SECTION 17. This act shall have no effect unless it is approved by a majority of the number of qualified voters of the City of Byrdstown voting in an election on the question of whether or not the act should be approved. The ballots used in the regular city election of 1998 to be held on the first Thursday in August shall have printed on them the substance of this act

and the voters shall vote for or against its approval. The votes cast on the question shall be canvassed and the results proclaimed by the county election commissioners and certified by them to the secretary of state as provided by law in the case of general elections. The qualifications of voters voting on the question shall be the same as those required for participation in general elections. All laws applicable to general elections shall apply to the determination of the approval or rejection of this act. The cost of the election shall be paid by City of Byrdstown.

SECTION 18. For the purpose of approving or rejecting the provisions of this act, as provided in Section 17, it shall be effective upon becoming a law, but for all other purposes the provisions of the act shall be effective only upon being approved as provided in Section 17.